

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**UNITED STATES OF AMERICA**

**vs.**

**CASE NO.: 96-CR-239-01(JAF)**

**And**

**CASE NO.: 97-CR-155-04(JAF)**

**IRVING COLON-VIERA**

\*\*\*\*\*

**MOTION NOTIFYING VIOLATION OF THE CONDITIONS OF SUPERVISION AND  
REQUESTING TRANSFER OF JURISDICTION**

**TO THE HONORABLE JOSE A. FUSTE  
CHIEF UNITED STATES DISTRICT JUDGE  
DISTRICT OF PUERTO RICO**

**COMES NOW, MALISSA Y. APONTE, U.S. PROBATION OFFICER of this Court,** presenting an official report on the conduct and attitude of the offender, Irving Colón-Viera, who on Case No.: 96-CR-239 was sentenced on March 18, 1997, to seventy (70) months of imprisonment having plead guilty of Aiding and Abetting to Assault a Post Office Employee and Having Lawful Charge, Custody and Control of the United States Mail Matter, Money or Other Property of the United States to be followed by three (3) years of supervised release. On January 27, 1998, Mr. Colón-Viera, again, appeared before the Honorable Fusté, on Case No.: 97-CR-155, and was sentenced to 121 months imprisonment, followed by four(4) years of supervised release, for Aiding and Abetting and Assault on a Person Having Lawful Charge of Mail Matter. The sentences were ordered to be served concurrently.

On February 23, 2006, Mr. Colón-Viera commenced his term of supervised release

in the Western District of Louisiana.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT AS FOLLOWS:**

Pursuant to the information provided by the supervising district, since his release from imprisonment, Mr. Colón-Viera has maintained gainful employment, often working many hours. He has been attending outpatient substance abuse treatment at the Acadiana Recovery Center since May 2006. On February 16, 2007, Mr. Colón-Viera provided a urine sample that tested negative, however, the lab result indicated that it had been "diluted". Mr. Colón-Viera claimed not to have any knowledge as to why his urine sample was diluted. On March 15, 2007, Mr. Colón-Viera submitted a drug screen sample which tested positive for marihuana and cocaine. Mr. Colón-Viera subsequently admitted to the use of marihuana and cocaine. As a result, Mr. Colón-Viera has violated the following condition of his supervised release term:

**STANDARD CONDITION NO. 7: THE DEFENDANT SHALL REFRAIN FROM EXCESSIVE USE OF ALCOHOL AND SHALL NOT PURCHASE, POSSESS, USE, DISTRIBUTE, OR ADMINISTER ANY CONTROLLED SUBSTANCE, OR ANY PARAPHERNALIA RELATED TO ANY CONTROLLED SUBSTANCE, EXCEPT AS PRESCRIBED BY A PHYSICIAN.**

The Western District of Louisiana is not requesting any Court action at this time. Their only request is to submit to the Court a report on Mr. Colón-Viera's non-compliance. Mr. Colón-Viera has been issued a verbal warning and his substance abuse treatment and urine screen frequency have been increased.

Our office has no objection to the Western District of Louisiana's position. However, in view of the fact that Mr. Colón-Viera has been in non-compliance and continues to reside in Louisiana, we respectfully request that jurisdiction be transferred to the Western District of Louisiana, at this time, in accordance to 18 U.S.C. § 3605.

**WHEREFORE**, I declare under penalty of perjury that the foregoing is true and correct, and we request the Court issue a written reprimand. If the offender incurs any further violations, the Court will be duly notified. Thereupon, he be dealt with pursuant to law.

In San Juan, Puerto Rico, this 27<sup>th</sup> day April, 2007.

Respectfully submitted,  
EUSTAQUIO BABILONIA, CHIEF  
U.S. PROBATION OFFICER

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: José Ruiz-Santiago, Assistant U.S. Attorney and Jorge Izquierdo, Esq. and Carlos Vazquez, First Assistant Federal Public Defender.

At San Juan, Puerto Rico, this 27<sup>th</sup> day of April, 2007.

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